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Attorneys for Defendants
Uber Technologies, Inc. and Rasier, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MATTHEW PHILLIBEN, JULIAN MENA,)
TODD SCHREIBER, NATE COOLIDGE,)
ERNESTO MEJIA, and BYRON)
MCKNIGHT, individually and on behalf of all)
others similarly situated,)
Plaintiffs,)
vs.)
UBER TECHNOLOGIES, INC., a Delaware)
Corporation; and RASIER, LLC, a Delaware)
Limited Liability Company,)
Defendants.)

Case No. 3:14-cv-05615-JST

**DEFENDANTS' RESPONSE TO THE
DISTRICT ATTORNEYS OF THE CITY
AND COUNTY OF SAN FRANCISCO
AND THE COUNTY OF LOS ANGELES'S
ADMINISTRATIVE MOTION TO FILE
AN AMICUS BRIEF IN OPPOSITION TO
MOTION TO FILE UNDER SEAL**

1 Defendants Uber Technologies Inc. and Raiser, LLC (collectively, “Uber”) respectfully
 2 submit this response to the District Attorneys for the City and County of San Francisco and the
 3 County of Los Angeles’s (collectively, “the District Attorneys”) Administrative Motion for Leave
 4 to File an Amicus Brief (the “motion”).

5 The District Attorneys contend that their motion was necessary because they “need to see .
 6 . . . important information” that Plaintiffs and Uber have sought to file under seal (Dkt. No. 75).
 7 Mot. at 2. Uber is surprised by this assertion because the parties were in the process of meeting
 8 and conferring to address this very request, which the District Attorneys first made to Uber only
 9 three days ago. During a February 22, 2016 conference call, the District Attorneys requested
 10 access to information that Uber had designated as confidential in the settlement filings.
 11 Declaration of Andra B. Greene (“Greene Decl.”) ¶ 3. In response, Uber stressed the highly
 12 sensitive nature of this trade secret information and requested that the District Attorneys’ agree to
 13 be bound by this Court’s Protective Order in this action (Dkt. No. 52). The District Attorneys
 14 stated that they would agree to abide by this Court’s Protective Order. *Id.* ¶ 4. Uber then asked
 15 the District Attorneys to identify the redacted information they wished to see, and the District
 16 Attorneys agreed to provide Uber with a list of requested information. *Id.*

17 Instead of doing so, however, the District Attorneys suddenly reversed course the next day.
 18 They called Uber’s counsel and stated that they intended to file an opposition to the motion to
 19 seal. *Id.* ¶ 5. They also informed Uber that they were no longer willing to comply with this
 20 Court’s Protective Order, but instead would seek to treat all redacted information as available to
 21 the public. *Id.* Before Uber could respond to the District Attorneys’ new position, the District
 22 Attorneys’ filed this motion. *Id.* ¶¶ 5-6.

23 Notwithstanding the District Attorneys’ about-face on the issue of compliance with this
 24 Court’s Protective Order and unilateral abandonment of the meet and confer process, Uber does
 25 not oppose the District Attorneys’ motion for leave to file an opposition to the administrative
 26 motion to file under seal. Uber does, however request the opportunity to respond to the District
 27 Attorneys’ proposed amicus brief (Dkt. No. 81-2) on the merits, as the District Attorneys’
 28 arguments are deeply flawed.

For instance, the District Attorneys contend that the information that Uber seeks to have sealed is not confidential because it was disclosed pursuant to settlement of an entirely separate matter, *Tadepalli v. Uber Technologies, Inc.*, No. 3:15-cv-04348-MEJ (N.D. Cal.). Mot. at 5. This is false. The *Tadepalli* settlement did not involve any of the redacted information in connection with the settlement motion in this case (which is why the information in *Tadepalli* was not redacted). *Tadepalli* involved extremely limited revenue (and no cost) information regarding fees associated with just three California airports, information that is already provided by Uber to the airports and to the California Public Utilities Commission. See Declaration of Evan Ackiron (Dkt. No 81-1), Ex. A ¶ 3. In contrast, all of the redacted information in connection with the settlement motion in this case is highly confidential, non-public information, which covers a wide array of cost and revenue information that encompasses all Uber products in the United States over a significant time period. See Defendants' Statement in Support of Plaintiff's Administrative Motion to File Under Seal (Dkt. No. 80) at 3-5. It is therefore undeniably trade secret protected, and this Court has held that such information is properly submitted under seal in the context of a preliminary approval motion. See *Keirsev v. eBay, Inc.*, No. 12-cv-01200-JST, 2013 U.S. Dist. LEXIS 147573, at *7 (N.D. Cal. Oct. 11, 2013) (Tigar, J.) (granting a motion to seal company data regarding revenue and consumer usage statistics).

Uber also notes that the District Attorneys' proposed amicus brief, at 10 pages, is double the limit provided by the Local Rules. See L.R. 7-11(b) ("Any opposition to or support for a Motion for Administrative Relief [including motions to file under seal] may not exceed 5 pages."). It was also filed over a week after the four-day deadline to oppose Plaintiffs' Administrative Motion to File Under Seal (Dkt. No. 75).¹ *Id.* The District Attorneys' disregard for this Court's Local Rules (and a proper meet and confer process) should not give them an unfair advantage. Consequently, Uber respectfully requests that it be afforded the opportunity to provide a full and adequate response to the District Attorneys' proposed amicus brief.

¹ Plaintiffs' administrative motion was filed on February 11, 2016. Any opposition was thus due on February 16, 2016 given the President's Day holiday. L.R. 7-11(b). However, the District Attorneys did not even reach out to Uber to start the meet and confer process until February 17, 2016 – one day after the deadline. Greene Decl. ¶ 2.

1 Dated: February 25, 2016

IRELL & MANELLA LLP

2
3 By: /s/ A. Matthew Ashley

4 A. Matthew Ashley

5 Attorneys for Defendants

6 Uber Technologies, Inc. and Rasier, LLC

7 **ECF ATTESTATION**

8 I, Michael D. Harbour, am the ECF user whose ID and password are being used to file
9 DEFENDANTS' RESPONSE TO THE DISTRICT ATTORNEYS OF THE CITY AND
10 COUNTY OF SAN FRANCISCO AND THE COUNTY OF LOS ANGELES'S
11 ADMINISTRATIVE MOTION TO FILE AN AMICUS BRIEF IN OPPOSITION TO
12 PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL. I hereby attest that I
13 received authorization to insert the signatures indicated by a conformed signature (/s/) within this
14 e-filed document.

15 Dated: February 25, 2016

16
17
18 By: /s/ Michael D. Harbour

19 Michael D. Harbour